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ABSTRACT

During the 1970s, self-determination was institutionalized as official U.S. Indian policy through federal legislation and administrative guidelines. The seeds of this policy date to the Indian New Deal in the 1920s when John Collier's Indian reform movement sought to lessen the autocratic power of the Bureau of Indian Affairs (BIA) by institution "indirect administration" through native political structures under the supervision of colonial administrators. The Indian Reorganization Act provided the basis for tribal government, but resulted in standardization of tribal governments and centralization of BIA power. After World War II, the federal government tried to force Indian assimilation by terminating aspects of the special federal-Indian relationship and relocating many reservation residents to urban areas. Heightened Indian consciousness, new intertribal organizational structures, and increased availability of legal representation to tribes during the termination period provided the basis for an Indian movement for self-determination during the 1960s and 1970s. Despite landmark legislation and explicit federal recognition of the intergovernmental nature of the federal-Indian relationship, self-determination policy remains limited by a lack of tribal control over programs and appropriations. Particularly problematic is the organizational structure of the BIA and other agencies responsible for implementing Indian policy. It seems likely that current and proposed public policy will fall short of achieving full self-determination for American Indians. (SV)

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ORGANIZING FOR SELF-DETERMINATION: FEDERAL AND TRIBAL BUREAUCRACIES IN AN ERA OF SOCIAL AND POLICY CHANGE

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In this chapter, the concept of self-determination and its use in recent United States Indian policy will be examined. Both the development of the policy and the organizational development of the Bureau of Indian Affairs are discussed. Among a number of impediments to the full realization of the potential of self-determination, particularly problematic is the organizational structure of the federal agencies responsible for implementing the policy, especially the Bureau of Indian Affairs. It seems likely that current and proposed federal policy will fall short of achieving the promise of full self-determination for American Indians.

The Concept of Self-Determination

"Self-determination" has been the official Indian policy of the United States since the administration of President Richard Nixon. Originally promulgated to signal a departure from the discredited policy of termination, Congress and the executive branch institutionalized the policy during the 1970s in a series of acts and administrative guidelines.[1] Today, the self-determination policy seems firmly established.

Self-determination is an ambiguous term. Most tribal leaders would probably prefer "sovereignty" as a description of the status of contemporary tribal governments. Self-determination, however, appears to be the term preferred by Congress and by federal administrators. But what does the term mean? And more important, does the way in which the self-determination policy has been implemented in the last two decades conform with that meaning?

In international law, self-determination refers to the right of a people to self-rule, as opposed to political domination by outsiders. Ac-

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cording to the political philosopher Dov Ronen, there have been five manifestations of self-determination since the nineteenth century: national self-determination; Marxist, working-class self-determination; Wilsonian self-determination of minorities; anti-colonialism; and ethnic self-determination.[2] If the term has been ambiguous, the power of the concept has been undeniable in recent times.

According to Ronen, the presence of an oppressor is an essential element in the quest for self-determination, which he considers to be a manifestation of humankind's pursuit of freedom and self-fulfillment. European history is replete with examples of national identity formed in opposition to perceived oppression on the part of an outsider. Thus, the modern states of Germany and Italy were formed as the result of self-determination movements organized in response to the Napoleonic occupation of central and southern Europe in the early nineteenth century. The conditions for the initiation of a quest for self-determination, according to Ronen, include, most importantly, domination by an outsider, who is seen to be blocking the people's genuine aspirations for the good life.[3]

Self-determination is seldom granted; instead, it is won. While examples of the various forms of self-determination can be identified, Ronen considers the contemporary era to be dominated by ethnic self-determination as a result of the success of earlier quests for national self-determination, a sympathetic world opinion, and the influence of the United Nations.

The right of self-determination is recognized in the United Nations Charter, as well as in a number of covenants adopted by the United Nations and other international organizations. The application of the principle, however, is not always clear. While a number of recent declarations suggest that the principle should be applied to indigenous people living within established nation-states, the United Nations General Assembly has limited the application of the principle in situations which "would dismember or impair . . . the territorial integrity or political unity of sovereign and independent states."[4] While the ultimate outcome of a quest for self-determination may be difficult to achieve, the principle, at a minimum, means the right to maintain traditional culture and to use land and natural resources.[5] The principles of the United Nations Covenant on Civil and Political Rights of 1966, and of the Helsinki Accords of 1975, for example, have been held by the Norwegian Supreme Court to apply to the rights of the Sami people (Lapps) in Norway.[6] Similarly, Canada's participation in a number of international agreements has been held to require its adherence to the principle of self-determination in its relations with Canadian Indian

peoples, although attempts to implement this principle have been less than satisfactory.[7]

The self-determination of subnational groups has been held by some to exert unacceptably centrifugal pressure on nation-states. This argument is particularly salient for Canada and many African nations. In Canada, demands by Québecois and the Western provinces for autonomy, in addition to Indian, Inuit and Métis demands, have been perceived as potentially disintegrative.[8] In postcolonial Africa, fragile state systems have been confronted with ethnoregional demands for self-determination which "threaten the very existence of the state itself."[9] Meaningful self-determination for subnational ethnic groups is thus seen by some as incompatible with the modern nation-state.

Congressman Lloyd Meeds' dissent to the final report of the American Indian Policy Review Commission, issued in 1977, seems consistent with this line of thinking. The commission concluded that "Indian tribes are sovereign political bodies," although their sovereignty is limited as a result of their political relationship with the United States.[10] Meeds disagreed: "In our Federal system . . . there are but two sovereign entities: the United States and the States," he wrote. "American Indian tribes lost their sovereignty through discovery, conquest, cession, treaties, statutes, and history. . . . The Congress of the United States has permitted them to be self-governing entities" to allow them "to preserve the uniqueness of their own cultures."[11]

While Meeds' dissent is based on the assumption that the modern nation-state is the ultimate, terminal entity in political evolution, Ronen views self-determination efforts as one manifestation of an ongoing quest for freedom. According to Ronen, then, if the nation is seen as alterable, it may be changed to "accommodate quests for ethnic self-determination."[12] In fact, he predicts the proliferation of such small political entities because of an aspiration towards more ethnically homogenous entities and growing international support for human rights, including the right of self-determination.[13] Nor would Ronen concur that ethnic self-determination is necessarily a disintegrative force. While demands for ethnic self-determination are salient in the social and political realms, Ronen predicts increasing economic and normative integration as a result of the internationalization of the world economy and the rise of mass communications. Increasing integration in economic and normative terms may be accompanied by a multiplication of small sociopolitical units.[14]

In conclusion, as numerous authors have noted, self-determination is a concept that has vacillating meanings and applications, depending upon the situation. In the context of subnational ethnic groups, self-determination often means something less than complete indepen-

dence. However, true self-determination must mean something more than permission from the nation-state to engage in self-government. Meeds appropriately avoided using the term to describe his conception of the legal relationship between the United States and the Indian tribes. Self-determination involves, minimally, the right of a people to determine its internal political structure, to enjoy religious and cultural freedom, and to protect their land and natural resources. Judged against this standard, however, the past record of United States-Indian relations has not been a positive one.

United States Indian Policy

Some scholars date the Indian New Deal as the beginning of a self-determination period in American Indian affairs.[15] The Bureau of Indian Affairs had exercised nearly autocratic control over American Indians for a century by the 1920s, when John Collier became the leader of an Indian reform movement. Established during the early years of the republic to supervise trade with the Indian tribes, the agency proved to be highly adaptable to changing conditions. Policy objectives of removal, concentration and containment gave way to "civilization" or the acculturation of the Indians as the agency's *raison d'être* in the late nineteenth century. This objective implied a centralized administration, a formalization of administrative procedures, and an emphasis on education as the central tool of the organization.[16] The goals of civilization and progress were used to justify opening Indian resources to exploitation by the white population. Aboriginal economies were held to be inefficient, supporting only small numbers of people on large tracts of land. Civilizing the Indian, it was expected, would result in opening vast expanses of the national estate to settlement by non-Indians, who could presumably make more productive use of it. The acquisition of new farming techniques and habits of industry would, at the same time, make it possible for the Indians to do better with less. Thus, the expropriation of the Indians' estate could be justified as being in their ultimate interest.[17]

By the 1920s this theory, like so many other Victorian notions, had lost much of its appeal. Self-confident Euro-Americans had good reason to question the assumptions of nineteenth-century Indian policy. Dispossessed of much of their land, American Indians were among the poorest of Americans, in income, in educational status and in health status. John Collier railed against the Indian Office, which he said exercised an autocratic rule comparable to that of Czarist Russia or the Belgian Congo. The failure of the "movement for Indian assimilation"

was everywhere apparent. Scandals and exposure of its complicity in attempted land grabs of the 1920s left the Indian Service weakened and demoralized.[18]

While the movement to protect Indian rights can be seen as one more in a series of efforts by non-Indians to reform Indians, this was a reform movement with a difference: Indigenous Indian social organization and culture were more respected, and the pressure for rapid assimilation, so common a goal of non-Indian reformers, was less evident. Indeed, Collier acknowledged the importance of maintaining some aspects of Indian culture in future policy decisions.

Collier's criticisms of the Indian Service's administrative style were central to his attack on the Indian policy of the 1920s. Like European imperialist administrators, also under attack in the 1920s, the Indian Office ran roughshod over its aboriginal charges, with little regard for elementary human rights or for the value of indigenous social institutions. For models to reform Indian administration, Collier turned to English liberal colonial reformers, particularly the advocates of "indirect rule."[19]

Indirect rule, or "indirect administration" as Collier preferred to call it, was developed by colonial administrators in Africa as a way to preserve some aspects of indigenous social organization while simultaneously preparing the colonized society for eventual independence on a European model. Rather than concentrating all operating authority in the colonial administration, native political structures could be induced to carry out some of the activities of government, albeit under the supervision of colonial administrators. By encouraging an appreciation for African culture and indigenous forms of social organization, colonialism theoretically could become more sensitive to the needs of decultured African tribesmen. And by enlisting African traditional leaders in the business of government, colonial administrators could aspire to legitimacy in the eyes of the colonized. Their allies in this endeavor were social scientists, particularly the anthropologists who studied African social organization.

The Indian New Deal

Indirect administration provided the rationale for the Indian New Deal when Collier became Commissioner of Indian Affairs in 1933. The cornerstone of Collier's program was the Indian Reorganization Act, which provided the legislative basis for the modern tribal government. Collier, like the proponents of reform in African colonial administrations, looked toward the day when the formerly dependent charges of

the Indian Bureau would be self-governing; in the meantime, a transformed Indian Service would guide Indians toward eventual self-rule.

In the American context, indirect administration was probably more beneficial than not for American Indians. While the Indian Reorganization Act gave the federal government veto power over the decisions of Indian tribes, and while some federal administrators dominated local tribal councils, the Indian New Deal did end the process of allotment, encouraged the formation of tribal governments, brought Indians into the Indian Service in larger numbers and in positions of increased responsibility, and increased the attention paid to community development and social organization by the agency.[20]

The Indian New Deal, however, did not change the fundamental relationship between the Indian Service and American Indians. Indirect administration required central direction; while a change in the goals for the Indians was implicit in the Indian New Deal, a change in the administrative relationship was deemed to be premature. Preparation for independence, like preparation for "civilization," required tutelage. As had been the case under earlier administrations, Indian affairs remained centralized during the New Deal and federal powers over Indian tribes actually increased during the 1930s.

Centralization of the Indian Service also resulted from Collier's ability to attract funds from New Deal emergency relief agencies to finance Indian programs. In 1934, for example, Indian Service expenditures totaled over $23 million, 55 percent more than 1928 appropriations. Most of the increase, 82 percent, resulted from emergency appropriations provided to the Indian Service by New Deal agencies which had been created to provide work relief and other programs to deal with the consequences of the depression.[21] Since these funds were allocated to the agencies by the Washington office, the effect was to increase the power of the central administration and the federal government.

More important than new funding for Indian programs were the new powers given to the Indian Office by the Indian Reorganization Act. The act required federal approval of tribal constitutions and of the decisions made by tribal governments. This resulted in a standardization of tribal governments which, if not complete, evidenced considerable uniformity. It is probably true, as Wilcomb Washburn asserts, that Collier achieved as much autonomy for the tribes as could reasonably have been expected. Whether intended or not, however, the Indian New Deal resulted in a consolidation of power within the Bureau of Indian Affairs.[22]

Much of the Indian Service staff, particularly the field personnel who were in direct contact with Indian people, was inherited from an earlier era. As a career office, the Indian Service was composed primar-

ily of people who had started their positions when policy goals for the Indians were very different from those of the New Deal era. Some Indian Service employees testified against the Indian Reorganization Act, leading to a controversial "gag order" issued by Secretary of the Interior Harold Ickes. Others, in spite of the intent of the law, continued to relate to Indians in an authoritarian manner. Some Indian Service employees probably genuinely did not understand the law's purpose. For many reservation Indians, the Indian New Deal affected their dealings with federal officials only slightly.[23]

As World War II progressed, the Indian Office headquarters was moved from Washington, D.C., to Chicago to make room for the expanding war-related agencies in the nation's capital. During this period, Collier's relations with Congress, never excellent, deteriorated. Congress reduced appropriations for tribal development purposes, while increasing appropriations for such individually-oriented programs as education and health care.[24] Clearly, these developments would portend changes in Indian administration in the years ahead.

The Termination Era

If active resistance to external control epitomizes the struggle for self-determination, then the origins of modern Indian self-determination surely date to the post-World War II era. A number of events coincided to open up the organizational environment of American Indians, while threats to Indian autonomy and their control of natural resources increased.

The United States emerged from World War II in a nationalistic frame of mind. Liberal patriotism combined with jingoistic flag-waving to celebrate the values of Americanism and the virtues of American society. For liberals as well as conservatives, the persistence of an unassimilated aboriginal group within the United States seemed anomalous. The unusually severe winter of 1947-48, which wreaked much suffering on Indian communities in the Southwest, underlined this paradox. The exclusion of Indians from federally subsidized public assistance programs in Arizona and New Mexico, the continuing domination of Indians by the Bureau of Indian Affairs, and the extreme poverty of Indian people all seemed to contradict the ideals of democracy and equal treatment which had informed the allied struggle in World War II.

The postwar era was also a post-New Deal era. In the late 1940s many questioned the size and complexity of the federal government. Congress established a Commission on the Organization of the Execu-

tive Branch of the Government, headed by former President Herbert Hoover, to recommend ways of streamlining federal administration. The Hoover Commission recommended the termination of special services and protection provided to American Indians. Rather than maintaining separate programs, the commission felt that the service functions of the Bureau of Indian Affairs should be distributed to federal and state agencies serving the general population. This approach would allow the bureau to be dismantled, and Indians would be integrated into the general population.[25]

These sentiments led to a policy embracing the decentralization of the Indian Service, settlement of longstanding Indian claims against the United States, and the termination of federal protection and supervision of Indian people. Congress created the area office system in 1946 to decentralize Indian administration. In the same year, Congress established the Indian Claims Commission to extinguish Indian claims against the United States.

Eventual termination of federal supervision over Indian people was an implicit goal of all federal Indian policy, including the Indian New Deal. However, never before had there been such urgency to get Uncle Sam out of the Indian business. While Collier had thought it would take generations to free the Indians from federal supervision, Senator Arthur V. Watkins of Utah, a leading congressional proponent of termination, estimated in 1957 that "for most tribes it can be numbered in a few years."[26]

Some specific aspects of post-World War II Indian policy were welcomed by many Indians as well as by non-Indian public opinion. Many Indians approved of the repeal of Indian prohibition in 1953, particularly veterans of World War II and the Korean conflict, who could fight for their country but not legally drink alcoholic beverages. The creation of the Indian Claims Commission promised to expedite what had been a difficult process of pursuing tribal claims in the U.S. Court of Claims. Providing public assistance to individual Indian people, however grudgingly it was done, did much to alleviate the suffering of many who were poverty-stricken.[27]

While Indians might have found much to applaud in Indian policy developments of the 1940s and 1950s, Indian opinion was largely irrelevant to policymakers. During the New Deal years, tribes voted on whether or not to accept the Indian Reorganization Act and expressed their dissatisfaction with federal administrators by electing tribal leaders who opposed aspects of the New Deal. In contrast, Indians had little opportunity for input as the proposals of the terminationists were debated. The "Indian problem," when viewed as a symptom of an overpowerful bureaucracy, had created problem people, it seemed, who

were doomed to suffer from dependency, the twentieth-century name for what had been called pauperism a century earlier. In an early form of "blaming the victim," Indian opposition to termination was attributed to this government-created dependency.

Congress proceeded to trim the powers of the Indian tribes, redistribute some functions of the Bureau of Indian Affairs to other agencies, and terminate the special services and protection extended to specific tribes. While the overall threat of termination was a significant force affecting tribal actions, more specific changes in tribal powers and in the functions of the bureau were equally significant.

Law enforcement jurisdiction was both a troubling problem and a symbol of Indian exceptionalism. Public Law 280, passed by Congress in 1953, provided for the automatic assumption of civil and criminal jurisdiction over Indian reservations by five states, and, in other states, for state assumption of jurisdiction by state action, without consultation with the tribes affected.[28] Assimilating Indians to the states' legal systems, it was believed, would go a long way towards incorporating American Indians into American society.

The threats of losing criminal jurisdiction and of termination acted as a catalyst for Indian groups to organize to oppose these initiatives. Peter Iverson describes the 1940s and 1950s as an era of "building toward self-determination," since it was during this period that the intertribal organizational structures were created which made the "Indian renaissance" of the 1960s and 1970s possible.[29] Groups like the National Conference of American Indians and the United Sioux Tribes of South Dakota provided national and state-level forums for tribal leaders. Later, the National Indian Youth Council, organized in 1961, provided a basis for political action by the young.

In 1954, Congress transferred responsibility for Indian health care from the Bureau of Indian Affairs to the Public Health Service in the Department of Health, Education, and Welfare. This was part of the effort to dismantle the Indian Service and to allocate its functions to agencies serving the general population, as recommended by the Hoover Commission.[30] Introducing another agency, and another cabinet department, into Indian affairs diluted the power of the Bureau of Indian Affairs by providing a second agency with service responsibilities for American Indians. If the Department of Health, Education, and Welfare was never successful in its efforts to achieve the transfer of more branches of the bureau to HEW, the alternative was available to tribal leaders through legal action.

Pursuing claims in the Indian Claims Commission involved tribes with attorneys to a greater extent than ever before. While the tribal attorney had never been absent from Indian affairs, lawyers became

more prominent in the years after World War II. In addition to claims work, lawyers took on a variety of Indian causes, including access to state welfare benefits, the legality of state assertions of jurisdiction under Public Law 280, and the management of Indian assets by the BIA. Increased availability of legal representation resulted in significant changes in the legal status of Indian tribes. In 1959, the Supreme Court decided *Williams* v. *Lee*, a crucial case in the evolution of Indian tribal sovereignty, inaugurating the modern era in Indian law. The decision prevented a non-Indian plaintiff from using state courts to sue a reservation Indian defendant.[31]

Legal representation, a more complex administrative environment, and the perception of an increasingly hostile political climate provided the basis for an Indian movement for self-determination during the 1960s and 1970s. The relocation of large numbers of Indian people to urban areas, an explicit policy of the overall termination program, also had unexpected results. As Kenneth Philp suggests, relocation provided Indians with alternatives to reservation life, as well as increased incomes and educational levels. Less anticipated was an increase in Indian identity, albeit a pan-Indian one, and an increase in militancy, all of which were associated with relocation in many instances.[32] This was often true even for those who had not identified themselves strongly as Indians when living in reservation areas. Confrontations with genuine curiosity, indifference and hostility on the part of non-Indians led some Indian relocatees to reexamine their tribal identities. An anthropologist studying relocated Indians in the San Francisco Bay area in the 1960s found increases in Indian identity, particularly among Indians for whom Indian identification had not been important prior to relocation.[33]

The New Frontier and the Great Society

Events of the 1960s resulted in increased sophistication on the part of tribal governments as the choices available to them expanded. Programs of the Office of Economic Opportunity and the Area Redevelopment Administration (later the Economic Development Administration) became available to the tribes, which designated themselves community action agencies to take advantage of poverty program grants. Both federal agencies set up "Indian desks," and Office of Economic Opportunity representatives, in particular, were vocal in criticizing the Bureau of Indian Affairs.

Despite the rhetoric, the amount of real tribal input in OEO and EDA programming was questionable. Tribes competed for program

grants for specific purposes which were developed by the OEO and EDA bureaucrats. Adherence to the terms of the grants was enforced by the "memorandum writers" who occupied the "Indian desks" in Washington. Consultants and subcontractors, many of them academics, advised tribes and Washington officials on program design and implementation. Consequently, reservation programs, while ostensibly tribally operated, exhibited a striking degree of similarity. As in the case of Collier's "indirect administration," plans hatched originally in Washington were being carried out by tribal governments.

This is not to dismiss the real effects of the programs of the 1960s on tribal governments, however. In operating the programs designed for them, tribes gained valuable experience in grant administration, negotiation and, as alternatives to the programs packaged in Washington were increasingly proposed, program design. Incipient tribal bureaucracies were created to administer the new programs, and the minimal indirect costs that the grants allowed did permit some development of tribal administrative structures. Under pressure from the tribes, the BIA and the Indian Health Service began to contract with the tribes according to the provisions of the Buy Indian Act of 1910, a Progressive Era effort to improve tribal economies and Indian work habits by contracting for Indian labor.[34] Other federal grant-in-aid programs became available in such areas as housing, law enforcement and education. The *Catalog of Federal Domestic Assistance Programs*, similar in size and format to a department store catalog, became a fixture in the library of every tribal headquarters.

The Self-Determination Policy

In 1970, President Nixon called for a new policy of self-determination for American Indians. Rejecting both termination and paternalism, Nixon proposed that "Indians . . . become independent of Federal control without being cut off from Federal concern and Federal support." To this end, he asked Congress for legislation to enable the tribes to assume responsibility for service programs administered by federal agencies. The decision whether to take responsibility for program administration was to be the tribe's alone. The tribe would also have a "right of retrocession," enabling it to return administrative responsibility to the federal agency at its own option. Funding for the program would be secure under either arrangement — federal or tribal administration — and tribes would be free to determine how the federal services would be delivered and by whom.[35]

Tribal assumption of federal program administration seemed a logical next step in Indian policy, since by 1970 nearly all tribes had had several years of experience administering programs of the Office of Economic Opportunity and the Economic Development Administration, as Nixon noted in his message to Congress. As a result of the Nixon administration's promotion of tribal contracting of federal programs under the provisions of the Buy Indian Act of 1910, two tribes, the Salt River and Zuni, negotiated Buy Indian contracts covering virtually all BIA functions. In the Indian Self-Determination Act of 1975, Congress provided the authority Nixon had requested in his message.[36]

Title I of the act provided that tribes could at their option elect to contract for services provided to tribal members by the Bureau of Indian Affairs or the Indian Health Service. The amount of the contract was to be equivalent to the amount of federal funds expended for the activity. The tribe had the right of retrocession, but the federal agency could not revoke the contract except in cases where there was danger to life.

The Indian Self-Determination Act represented a significant conceptual advance in Indian self-government. Particularly important was the initiative given to the tribe, rather than the federal agency involved, to determine the timing of contracting. This was a significant change, one which broke ground with previous practice. Contracting under the act has continued to expand in the years since its enactment. In addition, other legislation, such as the Indian Child Welfare Act of 1978, has strengthened tribal governments and promoted self-determination.[37]

The Indian Child Welfare Act of 1978 gave tribes exclusive jurisdictional rights in child custody proceedings involving Indian children. The act provided for the reestablishment of tribal jurisdiction in states affected by Public Law 280. Tribes were given jurisdiction in cases involving tribal children residing away from reservations, and the act provided funding for tribal courts and child care programs. In another area, the Tribally Controlled Community College Assistance Act of 1978 provided operating grants to support tribal institutions of higher education.[38]

By the 1980s, self-determination seemed established as a bipartisan policy supported by a broad consensus. The policy seemed to imply an expanded recognition of the self-governing powers of the tribes. In 1983, President Ronald Reagan transferred the White House management of Indian affairs from the Office of Liaison to the Office of Intergovernmental Affairs, explicitly defining the relationship between the tribes and the federal government as a "government-to-government" relationship.[39]

The decades of the 1970s and 1980s have seen significant advances in the status of Indian tribal self-government. The question remains, though, whether the legal and administrative arrangements which have evolved constitute actual self-determination. While perhaps administrative arrangements can help meet demands for self-determination, a mere administrative response alone cannot be satisfactory. As Dov Ronen suggests, the quest for self-determination is "sentimental, emotional, patriotic, [and] national."[40]

Limitations of the Self-Determination Policy

A central criticism of the self-determination policy is that it involves contracting with tribes, rather than actually transferring power to them. In a self-determination contract, called a 638 contract after the public law number of the Indian Self-Determination Act, the tribe agrees only to carry out a program designed by a federal agency, the Bureau of Indian Affairs or the Indian Health Service. The power to define problems and devise solutions is not transferred from the federal agency to the tribe.[41]

When problems, the methods for their solution, and the standards to evaluate success are defined from the outside, the meaningfulness of the self-determination policy must be questioned. The Indian Health Service views the activities of tribal 638 contractors as "extensions of IHS itself, and therefore [believes] IHS should retain responsibility and control."[42] Rather than a reduction in the size of area office staff and the scope of its oversight responsibility, 638 contracting has resulted in their expansion, at least in the IHS.

Other complaints center around the tribe's access to information to facilitate planning and around the financing of tribal programs. Both the BIA and the IHS have difficulty determining the costs of specific programs. Since the tribe is supposed to receive the level of funding which would be expended by the operating agency under a 638 contract, such information is crucial in tribal planning for self-determination. Tribes have had difficulty gaining access to other kinds of information necessary for planning contracts, such as the incidence of criminal activity on reservations. Indirect costs are also an issue in financing self-determination. The indirect costs of a program may be higher for a tribe than for the federal government, because the tribe lacks the support services built into federal administration.[43]

The Indian Health Service has been accused of not aggressively pursuing the implementation of the self-determination policy. By IHS policy, 638 contracts are neither encouraged nor discouraged. Tribes are

neither rewarded nor punished for contracting to provide health services. While this approach is consistent with that outlined in Nixon's self-determination message, some tribal leaders have criticized the agency's approach to promoting tribal self-determination as too passive.[44]

Francis Paul Prucha has called attention to the continuing economic dependency of the tribes as a central problem in the drive for increased tribal autonomy. As long as the tribes are economically dependent on the federal government, he suggests, paternalism, and something less than self-determination, will persist.[45] Certainly, the tribes' lack of control over appropriations is a central problem for them.

An example of this lack of authority is that the Indian Self-Determination Act provides no protection against cuts in the budget for Indian services.[46] During the 1980s, with reductions in the overall budget allocations for domestic programs, Indian tribes experienced static funding or budget cuts in the face of increasing needs and a growing number of eligible Indians and tribes. Even apparent budget increases can be illusory. Funding for programs for elderly Indians under the Older Americans Act, for example, increased 20 per cent, from $6 million in 1980, the first year of the program's operation, to $7.2 million in 1986. Yet the number of older American Indians increased during this period, and the number of tribal grantees rose 45 percent, from 85 to 124. The result was a decline in the available funds per tribal grantee and a reduction in services on those reservations which had participated in the program from its inception.[47]

The budget problem has been severe during the 1980s, underlining the importance of economic development efforts. The consequence of the absence of successful economic development on most reservations has been the continued dependence of tribes and Indian people on federal appropriations. It is questionable how much self-determination can actually occur in a context of limited funding. In the fall of 1987, the *Arizona Republic* characterized the Reagan administration's Indian policy as one of dumping "the responsibility for operating Indian programs onto states and tribes."[48]

It is clear that the legislation of the 1970s and its implementation in the 1970s and 1980s have fallen short of the promise of self-determination. This was recognized by the leadership of the Bureau of Indian Affairs during the Reagan administration. In 1987, Ross Swimmer, then Assistant Secretary of the Interior for Indian Affairs, proposed separating the trust responsibilities of the BIA from its service responsibilities. The funding for services not required as part of the bureau's trust responsibilities would be designated "self-determination funds."

These funds would be distributed to the tribes based on a formula. The tribes would have complete discretion in determining how the self-determination funds would be used. Tribes, if they wished, could contract with the bureau or another federal agency to provide services, paying for them with the self-determination funds.[49]

Adoption of Swimmer's proposal would have resulted in an expansion in tribal autonomy. Problem definition and program design would have been initiated at the tribal level, and the proposal contemplated considerable programmatic diversity among tribes. However, while the proposal implied great decentralization in Indian affairs and might have increased the real powers of tribes, questions still remained.

The past record of policy changes did not support an overly optimistic view of the probable results of the Swimmer proposal. The level of funding for Indian programs was a serious concern. The proposal bore a striking resemblance to the revenue sharing and block grant programs which had been a significant element of intergovernmental fund transfers since the 1970s. While these latter programs increased the amount of discretion possessed by states, the effectiveness of the programs depended upon the maintenance of federal funding levels and on the administrative capacity of the states. The adequacy and stability of funding for self-determination would have been crucial in determining the success of the Swimmer idea.

How the trust responsibilities of the federal government were defined would also have been important. The federal trust responsibility was used to justify intensive supervision of 638 contracts; an expansive definition of the trust responsibility could justify continued close supervision of self-determination funds, frustrating the goals of the program.

Even with a limited definition of the trust responsibility, which was implicit in Swimmer's proposal, habits built up in over a century of Indian-government relations can be expected to persist. Implicit in the Swimmer proposal was a continued relationship between the Bureau of Indian Affairs and the tribes. The BIA would serve as trustee and, at a tribes's option, as contractor and provider of services. The nature of the tribal and governmental organizations involved will continue to be significant in determining the success of any new self-determination program.

Organizations

Formal organization provides a way to achieve immortality. While human lives are finite, formal organizations have the potential to tran-

scend the lifespans of their individual members. For example, a number of the federal agencies included in Donald Whitnah's reference book, *Government Agencies*, are over one hundred years old.[50] The Bureau of Indian Affairs, established in 1824, has survived for over 165 years, more than double the average human life expectancy. While organizations frequently do cease to exist, the concept of organizational death presents difficult problems of definition. When, for example, an organization changes its membership, its goals and its methods of operation, can we way that the old organization has perished and a new organization has begun? Or, are such transformations a sign of adaptability? Of the many characteristics of formal organizations, their persistence seems to be the most striking.

Continuity in an organization's existence is achieved through a variety of formal and informal mechanisms. Organizational change is difficult to achieve. Stability and security are perceived as beneficial by members of most organizations; mental blinders, calculated opposition, and lack of resources to retool all make achieving organizational change difficult, perhaps more so than individual change.[51] Indeed, organizations may employ a different standard of morality than individuals. Self-sacrifice is the highest morality, Reinhold Niebuhr suggests, but "it is obvious that fewer risks can be taken with community interests than with individual interests." If it is not quite true that "no one has a right to be unselfish with other people's interests," the capacity for unselfishness is limited in most collective enterprises, including formal organizations.[52]

The voluminous literature on organizations provides a variety of approaches to define them, as well as understand their importance for society. Moreover, it is certainly a mistake to view organizations as passive tools, mere instrumentalities created to accomplish a task. One can focus on several dimensions in trying to understand the operation of organizations.

Formal Structure

Organizations can be considered to be collections of positions, roles and statuses, together with the rules which govern the relationships between the occupants of the positions. This conception calls attention to the formal structure of the organization, the pyramid of authority or chain of command which might be illustrated on an organizational chart. Problems of organizational structure have been significant in the history of the Bureau of Indian Affairs.

Finding a structure which permits both a modicum of central direction and sufficient autonomy for local officials has been a persistent problem. The Bureau of Indian Affairs has a relatively small central office that operates a large number of geographically dispersed field offices or agencies. The work carried out at the agency level is highly nonroutine in character, demanding a relatively large amount of discretion from local officials. During the late nineteenth century, the bureau developed an organizational structure that was highly centralized and that exhibited a high degree of formalization. The organization's chief administrative problem during the early twentieth century was finding a way to decentralize, to delegate authority and responsibility to the field units. The Meriam Report of 1928 recommended the decentralization of operations, thus granting increased powers to the agency's field units. The creation of regional offices, another plausible solution to the problem of overcentralization, was rejected by the authors of the Meriam Report, who reasoned that such intermediate centers of authority would tend to reduce the powers of the local units.[53]

As we have seen, the New Deal hardly signaled a decentralization of the Bureau of Indian Affairs. Rather, a number of factors including the personality of the commissioner, the new approach to Indian-white relations, and the expansion of financial resources flowing through the central office, resulted in the increased centralization of the Indian Service during the 1930s. This was perhaps all the more surprising given Commissioner Collier's expressed commitment to decentralization.

The 1946 reorganization of the Bureau of Indian Affairs resulted in the creation of a group of area offices intermediate between the Washington office and the field agencies. The bureau adopted a line-and-staff form of organization, in which area office directors had direct authority over reservation superintendents. Operating branches at the field agency level were reflected in staff positions at the area and central office levels. As part of the reorganization, Congress permitted the delegation of authority from the Commissioner of Indian Affairs to the area director, and from that official to the reservation superintendent.[54]

The intent was to bring Indian administration "closer to the Indian people," in the words of Dillion S. Myer, Commissioner of Indian Affairs during the early 1950s and a strong proponent of termination.[55] Despite the goal of decentralization, the result of the creation of the area office system was to decrease local autonomy, just as the authors of the Meriam Report had predicted. Decentralization, a major objective of the reorganization, was not achieved, due to a tendency on the part of central office officials to check area office decisions. The Bimson Report, a 1954 administrative study of the Bureau of Indian Affairs completed for the House Committee on Interior and Insular Affairs,

concluded that the failure to delegate authority to the agencies was the result of the assumption of line responsibility by specialist staff members in the area offices.[56]

The area office system evidenced centralizing tendencies for another reason. Authority was not delegated to the operating level because the area offices became sources of negative authority within the Bureau of Indian Affairs. They could say no, but area office personnel had difficulty initiating new programs. The area office system did result in a great deal of regional variation within the Bureau of Indian Affairs and in the Indian Health Service, which also adopted the area office system when it was created in 1955. *Indian Health Care*, a study completed by the Office of Technology Assessment in 1986, found significant differences between IHS areas in allocations to budget categories, the extent of tribal self-determination contracting, and even in the data systems utilized.[57]

The structure of an organization is significant when attempting to determine its organizational performance. The area office organizational structure adopted by the Bureau of Indian Affairs in 1946 was designed to reduce the number of field units reporting directly to the Commissioner of Indian Affairs. Yet, by reducing the autonomy of the local units, the structure probably made the achievement of the goals of the self-determination policy more difficult. Advocates of Indian self-determination have viewed the area office system as an impediment to tribal control of BIA programs, since as tribes assume more responsibility for local programming, the role of the area office in contract monitoring and administration becomes more significant. The Indian Health Service has resisted efforts by the tribes to reduce the size of area offices and reallocate the resulting savings into program efforts. IHS officials have argued that the responsibility of administering 638 contracts and the availability of retrocession to the tribes make a strong area office essential to their administration.

The Bureau of Indian Affairs has both a line-and-staff and a regionalized area office administrative structure. Despite periodic efforts to decentralize the organization, centralization has increased as a result of the interaction of the two structural forms. The line-and-staff structure, which duplicates the administrative functions carried out at the local level with staff members (who technically lack line authority but frequently exercise it effectively) at the area and central office levels, makes each local employee of the bureau a "cosmopolitan," to borrow Robert Merton's term.[58] The exercise of line authority by administrative staff members results in an organization which is fragmented along functional lines.

The area office system results in an organization which exhibits considerable internal variation. Area directors have evolved methods of operating in the absence of, or sometimes in spite of, central office directives. The area office system shelters the Washington office from direct complaints from the reservation level, which may explain partially its long-term survival.

Informal Structure

Understanding organizational structure is essential for understanding how organizations work. However, a focus on structure alone yields an incomplete picture of the organization, since its members participate as whole people, not merely as owners of formal statuses and roles. They bring individual characteristics, likes and dislikes, with them to the organization. Thus, many investigators have probed deeper by examining the informal structure of organizations.

Institutionalization, the transformation of an organization from a rational tool to an entity invested with emotional meaning, results from the exercise of leadership in an organization. According to Philip Selznick, when an institutional leader can successfully identify an organization's goals and purposes, define the organization's boundaries, manage relations with the external environment, and structure the organization to embody its purpose, members of the organization will invest organizational activities with meaning and significance.[59]

Such organizational transformation can have lasting effects on the way the organization is perceived by its members. An institutional mission can infuse one's participation in an organization with significance and meaning, and can result in an intensified commitment to the organization's goals. More than twenty years after John Collier resigned as Commissioner of Indian Affairs, some career employees still spoke of the bureau's mission of "bringing democracy to the Indian people," in terms reminiscent of 1930s rhetoric.

Infusing organizational purpose with significance can, of course, be self-serving. An organization seeking to fulfill a vital mission may be justified in seeking more resources, in promoting itself, and in denigrating its opponents. Thus, Washburn argues that John Collier's use of persuasion was justified by the importance of his ultimate goal.[60] In addition, participants in an organization may derive satisfaction from their adherence to organizational norms by identifying them with a transcendent goal.

Other Views

A popular recent view of organizations, exemplified in many descriptions of the Bureau of Indian Affairs, is of the organization as an interest group.[61] All organizations may be assumed to have an interest in their own survival. Thus, organizations allocate resources to maintenance, to monitoring their environment and to influencing relevant elements in that environment. Manufacturing concerns may invest in advertising or other marketing devices; government organizations may lobby legislators, prepare glittering evaluation reports, or emphasize their competence. Perpetuating the organization's *raison d'être* or discovering a new mission for the organization are two ways in which an organization may function as an interest group.

Alternatively, organizations can be viewed as polities, as political arenas within which interest groups composed of differing factions of members compete with each other for dominance.[62] Such a view of organizations seems to be implicit in much of the literature on organizational renewal. By bringing new blood into an organization, the organization's presumed tendency toward rigidity and the routine can be shifted. While most of the old guard can be expected to resist innovation, a large enough cadre of newcomers can "turn the organization around," thereby securing innovative change. The successful attempt to increase Indian employment within the Bureau of Indian Affairs reflects such a situation. A BIA dominated by Indians in policymaking positions would be more empathetic and consequently more effective, many Indians and non-Indians believe.[63]

While introducing new elements into the decisionmaking structure of an organization can produce change, the reverse is often found to be true. Organizations exert a powerful pull on their members to conform, in spite of interest group conflicts which may occur. In part, this is because, other things being equal, power within organizations is based on length of tenure within the organization.[64] In addition, while innovation may be required to address organizational interests (when an organization is performing poorly, for example), the organization's long-range interests may not be changed by the introduction of new talent. Therefore, even the vigorous application of Indian preference rules will not necessarily change the BIA's definition of purpose, its method of operating, or the meaning it holds for its employees. While the players may change, the nature of the game likely will remain the same if the structure of the organization and its definition of purpose remain unchanged.

In addition to Indian preference, Congress and the executive branch should emphasize restructuring the BIA and redefining its mission in

the 1990s. Unfortunately, the Swimmer proposals for reform in Indian policy devoted too little attention to the administration of the organization responsible for implementing Indian policy. Indeed, the proposal neglected the organization of the bureau, seemingly hoping it would go away. Such an approach is unlikely to result in organizational renewal. The proposal, though, did focus attention on the organization of the tribes, which would be the central actors if the reforms were accomplished.

The literature on tribal government organization is not extensive as of yet, but scattered evidence suggests that tribes have responded to the changing political and economic environment by increasing their administrative capacity. On the Fond du Lac Reservation in Minnesota, Joyce Kramer reports that the self-determination policy resulted in the development of "a local bureaucracy," which delivers an increasing array of services to tribal members. Tribal members correspondingly report a high degree of satisfaction with the services.[65] While tribal bureaucracies have not met with approval on all reservations, tribes have responded to the availability of contracts and grants by expanding the services provided directly to members by a tribal civil service.

Because the funds available to tribes have been tied to programmatic areas established outside of the reservation context, the tribal organizations tend to mirror the organization of the BIA and the IHS. Two examples of such areas where grant programs for Indian tribes have been established are aging services and manpower training. Organizations of tribal contractors, often funded by the federal agency which supplies grants-in-aid to the tribes, have emerged and function as lobbying groups in the national arena, while they support the aspirations of local members for recognition on the tribal level.[66]

To the extent that tribes successfully have replicated non-Indian priorities and definitions in their administrative structures or have developed "administrative capacity," it might be expected that few problems would be encountered in implementing a real transfer of power from the federal government to the tribes. However, tribal administrations, no less than federal agencies, are formal organizations too, with their own internal interest groups, statements of mission, and needs for survival and growth. Only in a situation where tribal government structures do not mirror federal government agencies and functions will the effects of a transfer of decisionmaking authority to the tribes prove to be more favorable from the standpoint of self-determination.

A study of the Pine Ridge Indian Reservation published in 1980 concluded that a rapid expansion of the Oglala Sioux tribal bureau-

cracy between 1968 and 1972 contributed to a political crisis on the reservation. Tribal expenditures increased from $100,000 to over $3 million per year, reflecting the tribe's success in securing a variety of federal grants. New tribal employees were oriented toward traditional Oglala values. But the programs which they administered were not developed on the reservation. Both "mixed blood" and "cultural nationalist" factions were alienated from tribal government, since the resulting programs represented the aspirations of neither group.[67] A lesson on the proper place for the genesis of Indian programs can be learned from this experience.

Conclusion

The past performance of the federal government in Indian affairs is unsatisfactory when measured against the standard of the right to self-determination. While recent policy changes, implemented and proposed, represent real increases in the amount of Indian tribal autonomy, they fall short of achieving true self-determination. The government's record in the near future is unlikely to be much better, primarily because of a lack of attention to the organization of the agencies that implement federal policy. Tribal organization, as well as the organization of federal agencies, is important to consider in any evaluation of the probable success of a self-determination policy. The control and direction of tribal government has proved to be a divisive issue on some reservations; such tensions would be expected to continue as tribal autonomy increases.

As discussed earlier, Dov Ronen sees the quest for self-determination as a part of an ongoing quest for human freedom, and he considers it unlikely that any administrative arrangement will satisfy that desire. Such would seem to be the case with Indian self-determination, particularly in the absence of improvements in the economic, health and educational status of American Indian people.

NOTES

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[14]Ibid., pp. 99-101.

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[36]Indian Self-Determination and Education Assistance Act, P.L. 93-638, 88 Stat. 2203-2217, January 4, 1975 (93rd Congress, 2nd Session).

[37]Indian Child Welfare Act, P.L. 95-608, 92 Stat. 3069-3078, November 8, 1978 (95th Congress, 2nd Session).

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